

**PLANNING COMMISSION MINUTES
FEBRUARY 1, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1042

Request: R-4 to C-1
Project Name: Speedwash
Location: 9808, 9818, 9818R Hillock Drive & 8018 & 8102
Old Bardstown Rd
Owner: Old Bardstown Investment Group, LLC
Applicant: Speedwash Carwash
Representative: Wyatt, Tarrant & Combs, LLP
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Laura Mattingly, AICP, Planner II

Notice of this public hearing appeared in The Courier-Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:23:11 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Jon Baker, 500 W. Jefferson Street, Louisville, KY 40202
Kent Gootee, 5151 Jefferson Blvd., Louisville, KY 40219
Chris Harrison, 855 Lovers Lane, Suite 112, Bowling Green, KY 42105

Summary of testimony of those in favor:

01:30:58 Jon Baker summarized the applicant's proposal and showed a presentation. Mr. Baker responded to questions from the Commissioners.

01:43:24 Kent Gootee responded to questions from the Commissioners and discussed the private access easement.

01:47:28 Commissioner Brown stated that the realignment of Old Bardstown Road will be a Public Works project.

The following spoke in opposition to this request:

Claudia Jones, 9800 Hillock Drive, Louisville, KY 40291
Charlotte Nellis, 9803 Hillock Drive, Louisville, KY 40291

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Douglas Felkins, 8731 Lough Drive, Louisville, KY 40291

Summary of testimony of those in opposition:

01:48:23 Claudia Jones lives near the subject site. She is in opposition to a fourth carwash being constructed in the area and would like to see a different business occupy the site that would improve the area.

01:50:14 Charlotte Nellis and her mother also live near the subject site in separate homes. Her mother owns land that includes an easement along Hillock Drive. Six homes have permission to use the private road as well as Rite Aid. Ms. Nellis stated that Aspen Creek instructs their customers to use Hillock Drive as an exit, but they were never given permission to do so by her mother. She and her mother are opposed to the carwash being constructed and using their easement.

01:55:05 Douglas Felkins is on the Board of Directors of the Woods of Glenmary Patio Home Development adjacent to the subject site. The Board is opposed to the development because they feel this will not alleviate traffic in any way. He also stated there are three other carwashes within a half mile of this site, and another one is not needed.

Rebuttal:

01:56:55 Mr. Baker spoke in rebuttal and responded to questions from the Commissioners.

01:58:50 Chris Harrison of Speedwash Carwash responded to questions from the Commissioners regarding noise on the property.

Deliberation:

02:05:50 The Commissioners concur that the proposal is justified.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning Change from R-4 to C-1

02:12:08 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's findings of fact, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because this proposal is not a neighborhood center but is located near a mix of other commercial uses such as retail and restaurants. The proposal is located just off Bardstown Road, a major arterial,

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WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal utilizes the entire site and is cost effective due to existing infrastructure. The proposal is a single use but is in close proximity to a mix of commercial and residential uses. While cross access with this use is not appropriate, any other use proposed on this site will connect to the property to the south. The proposal is located near commercial developments with existing utilities and compatible utilities will be placed in a common easement. A public sidewalk is proposed which promotes pedestrian connectivity to nearby transit, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because a note has been placed on plan that indicates that building design will be in compliance with 5.6, although applicant will be required to submit elevations. This proposal is a non-residential expansion into a residential area, but the setbacks and buffers will be provided adjacent to the single family home to the west. The proposal is providing the required screening for adjacent less intense uses. The realignment of Old Bardstown Road mitigates for any traffic impacts associated with the proposal. All lighting will be in accordance with LDC standards. The proposal is located just west of Bardstown Road, a major transit corridor. The buffers adjacent to the residences are provided. While a variance is required, the proposed setback is similar to commercial development along Old Bardstown Road. Most VUA is located adjacent to the roadway and the appropriate LBAs have been provided adjacent to residential. While a waiver to decrease the VUA LBA is required, adequate screening and plantings will be provided, that will protect the roadway from visual intrusions. The proposal also meets Interior Landscaping requirements. Signage will be in compliance with LDC standards, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the proposal will require the removal of existing vegetation, although all tree canopy and planting requirements will be met, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal will require the removal of existing vegetation, although all tree canopy and planting requirements will be met. LOJIC has not identified any wetlands on site.

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because the proposal includes roadway improvements to Old Bardstown Road. While the proposal will be not providing pedestrian or crossover access, a new sidewalk is proposed that will increase pedestrian connectivity and transit access and improvements are proposed to Old Bardstown Road that will increase safety for vehicles, which the use is targeting. The proposal is using an existing roadway and access is acceptable. The proposal includes the realignment of Old Bardstown Road as well as new sidewalks along the site's frontage which will increase pedestrian connectivity and vehicular safety. The proposal meets parking requirements. This proposal will only add one "out only" curb cut on Old Bardstown Road. Cross access to the property to the south in this case is not appropriate due to the design of the car wash and the need for a secure facility, and

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WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because the proposal is using the existing roadway network. Access is from the existing local roadway, which intersects with a major arterial just to the east, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the users of this site will be vehicle therefore pedestrian connections are not appropriate. Public sidewalks are proposed along the frontage and will increase transit access as the site is located near a major transit route with TARC stops within a few hundred feet. Bike racks are provided primarily for employees, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has given preliminary approvals, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD has no issues with the site, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because this area is developed and served by utilities. There are existing water utilities and a fire hydrant located at the corner of Hillock and Old Bardstown. The proposal will hook up to existing sewage lines, and

WHEREAS, the Commission further finds that the applicant, Speedwash, proposes to construct a top-of-the-line, 9,947 square foot car wash on properties that include 9808, 9908 R, 9816 & 9816 R Hillock Drive and 8018 & 8102 Old Bardstown Road (the "Subject Property"); the applicant requests a change in zoning from R-4 Single Family Residential to C-1 Commercial District for only the 9808 and 9908 R Hillock Drive properties; in 2014, the Louisville Metro Council approved a similar zoning request – R-4 Single Family Residential to C-1 Commercial – involving the other four parcels that comprise the development site to allow a drive-through, fast-food restaurant; the property owner never acted upon that 2014 development plan, and

WHEREAS, the Commission further finds that the Subject Property is a corner location within the Neighborhood Form District at the intersection of three streets: Hillock Drive, a local street, Old Bardstown, a primary- collector street, and Bardstown Road, a major arterial, and located in between a Right Aid to the north (directly across Hillock Dr.) and a day care and medical office spa on the adjacent property to the south; other land uses in the immediate area include an Aspen Creek Grill restaurant and Thortons gas station on the other side of the Ride Aid, and, just across Bardstown Road, there is a Kohl's Department Store, Outback Steakhouse, and Marathon Gas, among numerous other commercial properties, and residential to the west; considering the commercial, office and institutional uses located next door to the south, across Hillock and beyond to the north, as well as across Bardstown Road to the east, the Subject Property is an appropriate site for commercial development and would it be impractical to maintain its use as residential, and

WHEREAS, the Commission further finds that in conjunction with the change in zoning, the applicant also requests the following forms of relief from the Land Development Code ("LDC"): a landscape waiver from LDC Section 10.2.10 (Table 10.2.6) to allow the 15-foot vehicular-use-

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landscape-buffer areas along the north and east property lines to be 10 feet; waiver requests of LDC Sections 5.9.2.A.1.b.ii and 5.9.2.A.1.b.i to not provide a vehicular connection from the Subject Property to the adjacent property to the south, and to not provide a pedestrian access on the Subject Property from the public sidewalk across the vehicle-use area to its car wash, respectively; and a variance from LDC Sections 5.1.8 and 5.3.2 (Table 5.3.2) to allow the proposed car wash to occupy less than the required 60% of the 80-foot-maximum-front setback, as measured from the redesigned Old Bardstown Road, and

WHEREAS, the Commission further finds that for the reasons stated herein, the requested change in zoning complies with all applicable guidelines of the Cornerstone 2020 Comprehensive Plan (“Cornerstone 2020”) and KRS 100.213 and, therefore, is recommended for approval, and

WHEREAS, the Commission further finds that the proposal site is located within the Suburban Neighborhood Form District and the application complies with this Guideline because the Neighborhood Form allows a mixture of uses, including neighborhood-serving uses along an activity corridor, such as this site; according to Cornerstone 2020 Guideline 1.B.3, the Neighborhood Form contemplates, at appropriate locations, neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services; the proposed development complies with Cornerstone 2020 Guideline 1 because it is a neighborhood-serving infill development on property located at the intersection of primary collector, major arterial, and local level streets and is mostly surrounded by other commercial and office developments along the Old Bardstown Road and Bardstown Road commercial corridors; moreover, the proposed development will be adequately buffered and screened from the residential uses along Hillock to the north and west of the site, and

WHEREAS, the Commission further finds that the subject site is located along the west side of both Old Bardstown Road, a primary collector, and Bardstown Road, a major arterial, and on the south side of Hillock Drive, a local-level street; as previously mentioned, the proposal site lies within an existing activity corridor that contains a mixture of neighborhood-serving uses; the property to the north was rezoned to C-2/C-1 to allow a Rite Aid store (Docket # 09-032-02), and on the other side of the Rite Aid to the north is Aspen Creek restaurant and Thortons gas station (Docket # 09-030-96); within the activity center and across Bardstown Road are a number of commercial properties, zoned both C-1 and C-2, that include the an Outback Steakhouse, Pizza Hut, Chase Bank (all within Glenmary Plaza), a Marathon Gas and Circle K store, a Kohl’s department store, Chik-fil-A, and various retail stores; the property to the south was rezoned in 2007 from R-4 Single-Family Residential to OR-3 Office Residential to allow a day care and medical spa, and

WHEREAS, the Commission further finds that the Subject Property complies with Cornerstone 2020, Guideline 2 and its applicable policies because it is compatible with existing uses and the Neighborhood Form District, and reflects a compact pattern of development; being an infill development within an established commercial corridor, the proposal results in an efficient use of land that utilizes existing infrastructure; infrastructure already exists, including sanitary sewer which will connect to the Cedar Creek Wastewater Treatment Plant; the subject property is also within close proximity of numerous residential developments and, therefore, is located in an

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area where a sufficient population exists to support the proposed development; the proposed development will add to the mixture of compatible land uses within the Bardstown Road (and Old Bardstown Road) corridor, thereby reducing traffic congestion by requiring fewer trips; not to mention, the proposed car wash will have good visibility on a well-trafficked corridor, which allows motorists looking for vehicle-wash service easy and efficient access to and from the site without having to travel off of the commercial corridor and away from the activity center, where such automobile traffic could potentially impact other less-intense land uses; the parking and vehicular use areas will be screened and buffered from adjoining residential uses, and a parking waiver is not needed; the applicant is asking for relief from existing Binding Element # 7 to not provide vehicular cross-access to the day care and medical spa site to the south because the proposed layout of the subject site is designed to move vehicles through its car wash and back out to Hillock Drive, and said design does not include enough space to facilitate safe traffic movements between the day care and medical spa property and the subject property without unavoidable conflicts in traffic movements; and finally, the subject property is on existing TARC routes, a sidewalk will be constructed as shown on the development plan, and a bicycle rack will be provided to ensure the proposed development is accessible by all transportation modes; for all of the foregoing reasons, the proposed development complies with Cornerstone 2020 Centers, Guideline 2, and

WHEREAS, the Commission further finds that Guideline 3 of Cornerstone 2020 is intended to ensure that all land uses and transportation facilities are compatible with nearby land uses and minimize impacts to residential areas, schools and other sensitive areas; the requested change in zoning complies with Guideline 3 because the proposed development is a compact, infill commercial development appropriately located along Bardstown Road, a major arterial, and Old Bardstown Road, a primary collector, within an existing activity center that serves the Neighborhood Form District; the proposal will adjoin commercial and office uses to the north and south and is compatible with the litany of commercial uses along the high activity commercial corridor, Bardstown Road; specifically, Speedwash's proposed car wash will fill in the gap between the previous re-zonings to the north and south, which were re-zoned to C-2, C-1 and OR-3, respectively, evidencing that this corridor area has a history of being deemed appropriate for an increase in the intensity of land uses; the two properties toward the rear of the development site and subject of this re-zoning request will align with the adjacent OR-3-zoned properties' zoning boundary directly to the south and with the parking lot servicing the Aspen Creek restaurant adjacent to the north of the Rite Aid; Speedwash's access points include access on Hillock Drive, toward the back of its property, and an access on Old Bardstown Road, at the front of the property; the access point on Hillock will be aligned with the Rite Aid's; a sidewalk will be constructed across the site's frontage to create a pedestrian connection between the adjacent properties, and

WHEREAS, the Commission further finds that the residential property to the rear of the Subject Property will be properly protected by the combination of an 8-foot privacy fence and robust landscaping as well as additional landscaping throughout the development site, which will provide more screening and buffering to mitigate against adverse visual impacts; the applicable building setback will be applied along the rear of the property and a 25-foot landscape buffer area will be established to further protect the residential use to the west; additionally, Speedwash maintains their car wash facilities in immaculate condition and its staff takes great

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pride in the cleanliness of its properties; Speedwash will be a good neighbor to any adjacent use; Indeed, Speedwash uses of the newest technologies in the car wash industry with an emphasis on conservation and environmentally-friendly materials and machines; Speedwash's car wash and detailing services a primarily located inside and its state-of-the- art vacuum system operates at moderate decibel levels, which noise further subsides at the property line and will not cause negative impacts on the surrounding properties; moreover, the automatic vacuum system supplies power based on demand, therefore when the vacuum stations are not busy, which is most of the time, the resulting noise from the vacuum station will be even lower than the decibel readings the applicant provided to the Commission during the public hearing, and

WHEREAS, the Commission further finds that the new, top-of-the-line-full-service car wash will occupy 25% of the maximum- front setback before the building setbacks another sixty feet, so that the vehicles getting service can exit the wash facility and have ample room to safely exit onto Old Bardstown Road or make a left and remain on the site to access additional servicing areas on the site; a variance is requested to exceed the maximum setback from Old Bardstown Road accompanies this rezoning application; in addition, a landscape waiver is requested to reduce portions of the landscape buffer areas along the north and east property lines to allow for Speedwash's safe and efficient site design, and more specifically to accommodate proposed self-service vacuuming stations along Hillock Dr. (north), a vehicle maneuvering area and a proposed detention basin (east); all planting requirements will be met within these VUA LBAs, and

WHEREAS, the Commission further finds that proposed handicap parking complies with local, state and federal ADA design requirements, and are appropriately located on the site to not conflict with vehicles as they move throughout the site; parking design, interior landscaping of the vehicular use areas ("VUAs"), signage, and lighting will comply with LDC regulations.; and, as a result, there will be no adverse lighting, odor, or visual impacts on surrounding land uses, and

WHEREAS, the Commission further finds that the proposed development will contribute to the overall mixture of uses, reduce vehicle miles traveled, and promote economic development along established commercial corridors; the proposal will minimize land use incompatibilities and the impact on public facilities; the setbacks, lot dimensions, and building heights will be compatible with surrounding properties that have been developed; accordingly, the proposed development complies with Cornerstone 2020 Guideline 3 and its applicable policies, and

WHEREAS, the Commission further finds that the proposed development complies with Cornerstone 2020 Guidelines 4 and 5 because the subject property does not contain any natural, scenic, historic, distinctive cultural features or limiting environmental features, such as wet soils or steep slopes, that would prevent its development as proposed; due to its small size, the development is not required to provide open space on site; the proposed landscaping and buffer areas are consistent with the existing pattern of development within the active Bardstown Road commercial corridor; proposed interior landscape areas comply with LDC requirements, and will serve to break up parking and vehicular use areas and enhance the aesthetics of the

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new car wash; therefore, the proposed development complies with Guidelines 4 and 5 of Cornerstone 2020, and

WHEREAS, the Commission further finds that the proposed development application complies with Guideline 6 of Cornerstone 2020 and its applicable policies because it will bring additional investment and promote economic development within the established Bardstown Road commercial corridor; and the Commission finds the subject property – being an infill site along a major arterial where a gap exists between other commercial uses – is an appropriate location for a modern car wash because it is located in an area with existing infrastructure, which is served by transit, and where a large population exists to serve the proposed development; the Subject Property is an older residential site suitable for rehabilitation and re-use, where Speedwash can provide new employment opportunities to a burgeoning population area, and

WHEREAS, the Commission further finds that the Commission further finds the proposed development complies with Guidelines 7, 8, and 9 of Cornerstone 2020 because it is designed to ensure the safe and efficient circulation by all types of transportation modes, including automobiles, bicycles, pedestrians, and transit; the current intersection of Hillock with Old Bardstown Road and Bardstown Road is not a perfect traffic situation, but the applicant is working with Louisville Metro Public Works, Metro Transportation Planning and the KYTC to create a safer and more efficient intersection; the improvements will likely include the repositioning of the Old Bardstown Road – Hillock intersection away from where Hillock intersects with Bardstown Road; the redesign of this intersection will provide vehicles with much needed space between the two intersections, which, unlike the current design of the intersections, will allow vehicles from Hillock to safely access Bardstown Road without interference or being blocked by those vehicles accessing Bardstown Road from Old Bardstown Road; indeed, the current configuration of these two intersections and the way they function together gives access priority to those cars accessing Bardstown Road from Old Bardstown Road over the vehicles accessing Bardstown Road from Hillock; the need for these roadway improvements predates this development proposal, but the applicant and the aforementioned agencies are working on a solution that will benefit all properties in the immediate area, as well as traffic flow along the Bardstown Road corridor; the access point to/from the site will be aligned with the Rite Aid's second access point, located on the northern side of Hillock Drive; in addition, cross-access between the Subject Property and the adjacent property to the south will not be necessary at this time because the respective site designs of the proposed car wash and the existing day care and medical spa do not relate well enough for an ample and safe vehicular connection to be established; instead, the applicant has agreed to a Binding Element that requires this cross connection be made at such time as the Subject Property is redeveloped into a use other than a car wash, and

WHEREAS, the Commission further finds that the Subject Property is served by TARC Route 17, ensuring an adequate level of transit service for the proposed development, especially for employees; a 5-foot sidewalk will be constructed along Old Bardstown Road and appropriate provision has been made for a bicycle rack on the proposed site; adequate parking will be furnished on the site; internal circulation will meet the Transportation Planning's requirements; interior landscaping will be provided to break up parking areas and enhance the overall

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aesthetics of the site; all of the above will ensure that internal and external circulation of the development provides safe and efficient travel movement by all modes of transportation, and

WHEREAS, the Commission further finds that the subject property is not located in the 100-year floodplain, and does not contain steep slopes, unstable or hydric soils, or blue-line streams; as a result, there are no environmental constraints which would prevent the development of this property as proposed; a detention basin will be located at the eastern portion of the property and will be subject to MSD review and approval prior to the issuance of construction permits; the basin is designed to enable proper stormwater handling and release management ensuring that adjacent properties will not be adversely affected; in addition, a water quality unity will be installed to meet all MS4 water quality regulations; an Erosion Prevention and Sediment Control Plan utilizing best management practices will also be implemented prior to commencing construction of the development; likewise, the proposal will be subject to APCD review and approval to ensure the car wash will not have a negative impact on air quality; for the foregoing reasons, the proposed development complies with Cornerstone 2020 Guidelines 10, 11 and 12, and all applicable Guideline Policies, and

WHEREAS, the Commission further finds that the applicant's proposed car wash complies with Cornerstone 2020 Guideline 13 because it meets or exceeds the requirements of the Land Development Code; a 25-foot landscape buffer area will be established at the rear of the property, which will be bolstered by a 8-foot privacy fence to protect the residential use to west of the site; a 15-foot landscape buffer area will also be created along portion of the southern property, which will further enhance the visual quality of the site and provide added protection to adjacent day care and medical spa; a landscape waiver is requested to permit proposed vacuum stationing and maneuvering areas to encroach in portions of the 15-foot landscape buffer area; the required plantings will be inserted within the 10-footbuffer areas, however, which will mitigate any negative impacts of the requested waiver; tree canopy and interior landscaping within the vehicular use areas will meet Land Development Code requirements; accordingly, the proposed development complies with Cornerstone 2020 Guideline 13 and its applicable policies, and

WHEREAS, the Commission further finds that the proposed development complies with Cornerstone 2020, Guidelines 14 and 15 because the subject property is served by existing infrastructure and all necessary utilities, including water, sewers, electricity, and telephone; it is also located in an established commercial corridor with adequate carrying capacity and provides appropriate connectivity to adjacent properties; the development also has an adequate supply of potable water and water for fire-fighting purposes, and is served by the Fern Creek Fire Department, located nearby to the north on Bardstown Road; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4, Single Family Residential to C-1, Commercial on .699 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

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YES: Brown, Lindsey, Lewis, Howard, Jarboe, Smith, and Carlson

NOT PRESENT: Peterson, Ferguson, and Tomes

Waivers

02:12:47 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's findings of fact, and testimony heard today, was adopted:

Waiver of Section 10.2.10 to reduce the 15' Vehicle Use Area Landscape Buffer Area along Old Bardstown Road and Hillock Drive to 10'

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the required plantings and screening will still be provided and the Vehicle Use Area buffers in question are adjacent to the public right of way, and

WHEREAS, the Commission further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. These guidelines are not violated as the proposed vehicle use area buffer will still include all the required plantings and screening which will meet the intent of the guidelines, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other landscaping requirements have been met and the area of pavement is needed to provide the services on site as well as adequate drive lanes, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as needed vehicle use area would have to be removed and significant site design changes would have to be made, and

WHEREAS, the Commission further finds that the applicant, Speedwash Car Wash ("Speedwash"), is seeking approval of a zoning change for two parcels – 9808 & 9908 R Hillock Drive – to locate a top-of-the line carwash facility on property that also includes four other parcels – 9816 & 9816 R Hillock Drive, 8018 & 8102 Old Bardstown Road – which were rezoned to C-1 Commercial in 2014 to allow a drive-thru Zaxby's restaurant (the "Subject Property"); the Subject Property is in the Neighborhood Form District; in conjunction with the proposed rezoning and development of the Subject Property, the applicant is requesting a waiver of LDC Table 10.2.6 to allow the 15-foot vehicle-use-landscape-buffer areas along Hillock Drive and Old Bardstown Road be reduced to 10 feet; as explained herein, the

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requested waiver complies with the criteria for granting waivers set forth in the Land Development Code and, therefore, is approved, and

WHEREAS, the Commission further finds that the requested waivers will not adversely affect adjacent property owners because the landscape buffer areas (LBA) and the required plantings therein will still exist and provide buffering along Hillock Drive and Old Bardstown Road; for visual consistency, the applicant will be installing an LBA along Hillock Drive similar to what the Rite Aid created across Hillock, which will be an improvement along this stretch of the street; additionally, an LBA will be established between a proposed sidewalk along Old Bardstown Road and the vehicular use area of the car wash; the development will be extensively landscaped throughout, and will meet or exceed the minimum interior landscaping and tree canopy requirements of the Land Development Code, and

WHEREAS, the Commission further finds that the requested waiver will not violate the Comprehensive Plan because the proposed use is appropriate for the highly active Bardstown Road and Old Bardstown Road commercial corridor area of the applicable Neighborhood Form District, which is characterized by a mixture of medium to high-intensity uses; the development will be extensively landscaped and will meet or exceed the minimum interior landscaping and tree canopy requirements of the Land Development Code; the waiver will not violate the Comprehensive Plan, nor its Guidelines and applicable Policies, for all the reasons set forth in the detailed Change in Zoning Justification Statement submitted with the rezoning application, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation – a reduction of 5 feet – is the minimum necessary to afford relief to the applicant because the VUA LBAs will otherwise fully comply with the LDC; and if the waivers are not granted, the applicant will lose an important amount of usable area on the Subject Property, will not be able to provide the adequate vehicular use and vacuum stationing areas, and will be unable to redevelop the Subject Property as proposed, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the greater VUA LBAs would cause unnecessary issues with the layout and functionality of the vehicular use areas of the proposed car wash site when the full screening and buffering plantings will be provided; interior landscape areas and tree canopy will also be provided per LDC requirements; the proposed development represents a significant economic investment on property that has been underutilized for several years; in addition, the proposed development improves the streetscape by providing sidewalks and creating manicured landscaped areas along Hillock Drive and Old Bardstown Road; accordingly, the requested waiver will not violate the Cornerstone 2020 Comprehensive Plan, and

Waiver of 5.9.2.A.1.b.i to not provide a pedestrian connection from the public sidewalk

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WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as public sidewalks are provided that will increase pedestrian connectivity, and

WHEREAS, the Commission further finds that Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. These guidelines are not violated as pedestrian connections throughout site and to the adjacent site are not appropriate as the primary users of this site are vehicle drivers. The proposal includes public sidewalks that will increase pedestrian connectivity and transit access, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as pedestrian connections are not necessary for a use that only serves vehicles, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as providing pedestrian connections are not compatible with the development, and

WHEREAS, the Commission further finds that the applicant, Speedwash Car Wash (“Speedwash”), is seeking approval of a zoning change for two parcels – 9808 & 9908 R Hillock Drive – to locate a top-of-the-line car wash on property that also includes four other parcels – 9816 & 9816 R Hillock Drive, 8018 & 8102 Old Bardstown Road – which were rezoned to C-1 Commercial in 2014 to allow a drive-thru Zaxby’s restaurant (the “Subject Property”). The Subject Property is in the Neighborhood Form District; in conjunction with the proposed rezoning and development of the Subject Property, the applicant is requesting a waiver of LDC Section 5.9.2.A.1.b.i to not provide a pedestrian access from the public sidewalk across its vehicle- use area to its car wash; the applicant is requesting this waiver because providing said connection between the public sidewalk and the car wash would create unsafe points of conflict between pedestrians and vehicles, which is incongruous with the guidelines and policies of Cornerstone 2020, Louisville Metro’s Comprehensive Plan; moreover, this connection is unnecessary for pedestrians, for the proposed car wash land use is highly unlikely to be accessed by pedestrians; as these findings set forth herein, the requested waiver complies with the criteria for granting waivers set forth in the Land Development Code and, therefore, is approved, and

WHEREAS, the Commission further finds that the requested waiver will not adversely affect adjacent property owners because Speedwash’s car wash, by its very nature, is a land use centered around providing services for automobiles and is designed to be accessed exclusively by automobiles; and Speedwash’s car washes allow its customers to drive onto the site to purchase automatic car washes via pay-station kiosks, as well as other associated services such as detailing and vacuuming; pedestrians without an automobile, including adjacent property owners, would have little to no reason to access the Speedwash building; consequently, adjacent property owners are not adversely affected by the lack of a pedestrian connection from the public sidewalk to Speedwash’s building, and

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WHEREAS, the Commission further finds that the requested waiver will not violate the Comprehensive Plan because the waiver to not provide the pedestrian connection from the public sidewalk to Speedwash will remove a conflict point between pedestrian access and a highly-utilized vehicular use area on the Subject Property; Cornerstone 2020—specifically Guidelines 7 Mobility/Transportation and 9 Bicycle, Pedestrian and Transit—promotes safe and efficient travel movement by all types of transportation for both internal and external circulation; Speedwash proposes to construct a sidewalk along its frontage for pedestrians to traverse the site within the public right-of-way; as previously mentioned, there is very little reason for pedestrians using the public sidewalk to access a car wash if they have no automobile in need of wash services; accordingly, it would contradict Cornerstone 2020's guideline and policies to invite these pedestrians into the Speedwash site, where they would have to cross a busy vehicular use area to reach a car wash; in contrast, not providing this pedestrian connection to Speedwash is more in keeping with the Comprehensive Plan, for it alleviates a conflict point between pedestrians and vehicles, thereby maintaining safe pedestrian movement along the site's frontage, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation – to not provide a pedestrian connection from the public sidewalk to the Speedwash structure – is the minimum necessary to afford relief to the applicant because Speedwash sells neither a product nor services that target pedestrians; Speedwash services are exclusively for automobiles; if the waiver is not granted, the applicant will have to construct the connection from the public sidewalk to a busy vehicular-use area, which would create an unsafe condition for pedestrians, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the presence of a pedestrian connection from the public sidewalk to the Speedwash site would only invite pedestrians to unsafely walk across an area highly trafficked by automobiles; it is very foreseeable that creating such a conflict point between pedestrians and vehicles could lead to injuries for pedestrians thereby making an unnecessary hardship for Speedwash, and

Waiver of 5.9.2.A.1.b.ii to not provide vehicular or pedestrian connection to the non-residential use to the south

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the adjacent property has its own access from Old Bardstown Road that will not be affected by the proposed development, and

WHEREAS, the Commission further finds that Guideline 2, Policy 13 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Guideline 7, Policy 13 requires joint and cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. Guideline 7, Policy 16 calls for the promotion of joint access and circulation systems for development sites comprised of more than one building site or lot. The purpose of the requirements to be waived are to allow similar, compatible non-residential and multi-family uses to access adjacent sites without use of the

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main road to reduce curb cuts, the amount of surface parking, and traffic on the main thoroughfare. These guidelines are not violated as safe access is provided to both properties and cross access is not appropriate for the proposed use due the nature of the business. The car wash site design requires a secure facility, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as cross connectivity would create security issues for the applicant, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as providing cross access creates security issues for the proposed use, and

WHEREAS, the Commission further finds that the applicant, Speedwash Car Wash (“Speedwash”), is seeking approval of a zoning change for two parcels – 9808 & 9908 R Hillock Drive – to locate a top-of-the-line car wash on property that also includes four other parcels – 9816 & 9816 R Hillock Drive, 8018 & 8102 Old Bardstown Road – which were rezoned to C-1 Commercial in 2014 to allow a drive-thru Zaxby’s restaurant (the “Subject Property”); the Subject Property is in the Neighborhood Form District; in conjunction with the proposed rezoning and development of the Subject Property, the applicant is requesting a waiver of LDC Section 5.9.2.A.1.b.ii to not provide a vehicular connection from the Subject Property to the adjacent property to the south, where Blue Halo Medical Spa and Little Scholars Childcare & Preschool are located; the applicant is requesting this waiver because providing said connection at this time between the two adjacent properties would create unsafe points of conflict between vehicles, which, as it relates to these two properties, is incongruous with the guidelines and policies of Cornerstone 2020, Louisville Metro’s Comprehensive Plan; rather than require this cross-connection at this time, the applicant will commit to a binding element requiring installation of a cross-connection for vehicles should any use other than a car wash be located on the Subject Property; as explained herein, the requested waiver complies with the criteria for granting waivers set forth in the Land Development Code and, therefore, should be approved, and

WHEREAS, the Commission further finds that the requested waiver will not adversely affect adjacent property owners because Speedwash’s site design, particularly its customized configuration for vehicular movement throughout the site, complements neither the adjacent Blue Halo Medical Spa’s nor the Little Scholars Childcare’s site design; indeed, Speedwash’s site is designed so that cars, upon entering the site from either Old Bardstown Road or Hillock Drive, generally move on the site counterclockwise to access the pay station, car wash, exit onto Old Bardstown or proceed to detail services, vacuum services, and finally the exit onto Hillock Drive; the only conceivable place for a vehicular cross-connection between Speedwash and Blue Halo is in an area in front of both buildings, which is too near where the vehicles on the Speedwash site exit the car wash; thus, the only vehicular cross-connection that could possibly be provided would be a one-way connection south from Speedwash to Little Scholar’s parking area; but providing this connection would create more of a disturbance for Little Scholar’s and for not much positive gain, as vehicles accessing the car wash have an exit

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directly onto Old Bardstown Road without having to interfere with vehicles and pedestrians traversing the parking and vehicular use areas of a childcare facility, and

WHEREAS, the Commission further finds that the requested waiver will not violate the Comprehensive Plan because the waiver to not provide the vehicular connection between the two neighboring properties will remove a conflict point between vehicles traveling north, across the Subject Property, to access Hillock Drive; Cornerstone 2020—specifically Guidelines 7 Mobility/Transportation—promotes safe and efficient travel movement by all types of transportation for both internal and external circulation; Speedwash proposes to construct a sidewalk along its frontage for pedestrians to traverse the site within the public right-of-way; as previously mentioned, there is little to no area on the Subject Property to safely accommodate a cross-connection for vehicles driving from the property to the south to access Hillock Drive; Speedwash's proposed site is designed for vehicles to maneuver counterclockwise and against any traffic that might enter the Subject Property from the Little Scholars property, the only area between the two sites where conceivably a cross-connection could be safely installed; accordingly, it would contradict Cornerstone 2020's guideline and policies to invite these vehicles into the Speedwash site, where they would have to go against vehicles traveling the opposite direction on-site, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation – to not provide a vehicular cross-connection between Speedwash and either Little Scholars or Blue Halo – is the minimum necessary to afford relief to the applicant because if Speedwash has to provide this cross-connection, it would be forced to either install an unsafe traffic condition on the Subject Property or it would have to completely redesign its entire site; consequently, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because installing a cross-connection for vehicular traffic between the two sites would create conflict points for vehicles either entering the Subject Property from the south and driving against vehicles maneuvering thereon or for vehicles exiting the Subject Property and atop the parking and vehicular use areas of a childcare facility, where the insertion of additional vehicles driving from the north – another, new direction in addition to vehicles accessing the parking area from the east – increases the chances of potential conflicts between other vehicles or between vehicles and pedestrians, thereby creating an unnecessary hardship for both Speedwash and the adjacent property owners; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the waiver of Section 10.2.10 to reduce the 15' Vehicle Use Area Landscape Buffer Area along Old Bardstown Road and Hillock Drive to 10', **(2)** the waiver of 5.9.2.A.1.b.i to not provide a pedestrian connection from the public sidewalk, and **(3)** the waiver of 5.9.2.A.1.b.ii to not provide vehicular or pedestrian connection to the non-residential use to the south.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Howard, Jarboe, Smith, and Carlson
NOT PRESENT: Peterson, Ferguson, and Tomes

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Variance and Detailed District Development Plan

02:12:47 On a motion by Commissioner Brown, seconded by Commissioner Lindsey, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's findings of fact, and testimony heard today, was adopted:

Variance from Section 5.3.2, Table 5.3.2 to allow the building to exceed the maximum front setback of 80' by 40'

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health, safety or welfare as the proposed setback will not affect visibility for drivers or pedestrians, and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposed setback is similar to nearby commercial properties, and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the building location does not affect visibility from public areas, and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as a portion of the setback requirement has been met, and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone, and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the site layout would have to be substantially altered from the business's typical design due to typical car queuing along the portion of the building that does not meet the maximum setback, and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, and

WHEREAS, the Commission further finds that the applicant, Speedwash, proposes to construct a top-of-the-line car wash on properties that include 9808, 9908 R, 9816 & 9816 R Hillock Drive and 8018 & 8102 Old Bardstown Road (the "Site" or "Subject Property"); the applicant is requesting a change in zoning from R-4 Single Family Residential to C-1 Commercial for only the 9808 and 9908 R Hillock Drive properties; in 2014, the Louisville Metro Council approved a similar zoning request – R-4 Single Family Residential to C-1 Commercial –involving the other four parcels that comprise the development site to allow a drive-through, fast-food restaurant; the property owner never acted upon that 2014 development plan, however; the Subject

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Property and the immediately surrounding area is located in the Neighborhood Form District, and

WHEREAS, the Commission further finds that the Site is a corner-lot location at the intersection of three streets: Hillock Drive, a local street, Old Bardstown Road, a primary collector street, and Bardstown Road, a major arterial; as part of this request, the applicant will be required to dedicate property for additional public right-of-way to allow for the much needed re-alignment of this intersection, specifically to reposition the intersection of Old Bardstown Road and Hillock Drive farther away from where Hillock Drive intersects with Bardstown Road; the re-alignment of this intersection will allow for vehicles to make safer traffic movements when accessing Bardstown Road from both Hillock Drive and Old Bardstown Road; in conjunction with the change in zoning, the applicant requests a variance from Land Development Code (“LDC”) Sections 5.1.8 and 5.3.2 (Table 5.3.2) to allow the proposed car wash to occupy less than the required 60% of the 80-foot-maximum-front setback, as measured from the redesigned Old Bardstown Road, and

WHEREAS, the Commission further finds that Speedwash is a full service, automatic car wash that offers customers the option to purchase a full detail service for their vehicles; after the customer enters the Site off Hillock Drive, the customer selects his/her desired service from the kiosk and the proceeds to enter into the car wash; once the car wash is completed, the customer, depending on the level of service purchased, will either exit the site directly onto Old Bardstown Road or make a left turn and proceed to either the detailing station or the vacuums on the Site; the area of the car wash where vehicles exit the building will meet the setback requirement; this exit area of the structure occupies less than 60% of the frontage, and

WHEREAS, the Commission further finds that the requested variance will not adversely affect the public’s health, safety, or welfare; Speedwash requires variance relief from the applicable setback limitation on the Subject Property so that it can implement its proposed site design, which is configured for both safety and efficiency of vehicular movements throughout the site, including entering and exiting the same; indeed, enough room must be provided on the Site to allow for vehicles exiting the automatic car wash to either make a left turn and remain on Site so that customers can access other services or proceed to exit the Site onto Old Bardstown Road; consequently, the granting of this variance relief will help ensure the public’s health, safety and welfare, and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity, which is characterized by a mix of residential and commercial developments; in the more immediate area, the proposed car wash’s front facade will be similarly aligned with the front facades of the neighboring Rite Aid and medical spa buildings; in fact, the proposed car-wash building’s orientation on the Site virtually reflects the medical spa building the south; like the proposed car wash, the medical spa building is shaped like an “L” that points its long end toward Old Bardstown Road and its short end away from the property line shared with the Subject Property; moreover, like the proposed car wash, the medical spa building also does not meet the maximum setback, as its front façade occupies far less than 60% of its lot’s frontage; as a result of the similarity in building orientation shared between the adjacent properties, the proposed car wash will complement the neighboring medical spa,

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especially from the perspective of Old Bardstown Road; more generally, the proposed car wash is an appropriate development of an underutilized property along a commercialized section of Old Bardstown Road, where it intersects with the larger commercial corridor, Bardstown Road; other land uses in this area include Aspen Creek Grill restaurant and Thortons gas station located on the other side of the Ride Aid, and, just across Bardstown Road, there is a Kohl's Department Store, Outback Steakhouse, and Marathon Gas, among numerous other commercial properties, and residential to the west; therefore, granting the requested variance will not alter the essential character of the general vicinity, and

WHEREAS, the Commission further finds that the proposed variances will not cause a hazard or nuisance to the public because the resultant setbacks will be consistent with setbacks in the general vicinity and a good portion of the car wash's front façade will nearly align with the front façade of the neighboring medical spa building to the south; twenty-five percent of the car-wash building will comply with the applicable 80-foot maximum setback and the additional setback of the detailing portion of the car wash structure is consistent with how the additional portion of the medical spa building is setback from Old Bardstown Road. Adequate utilities and infrastructure exist to support the proposed use; therefore, the proposed variance will not cause a hazard or nuisance to the public, and

WHEREAS, the Commission further finds that as stated, the requested variances will allow the proposed building to be consistent with the pattern of development in the immediate vicinity and allow for safe and efficient vehicular movement throughout the Site; and as mentioned, a portion of the car-wash building proposed for the site will abide by the maximum setback requirement and the relief being requested is to allow for the northern section of the car wash, where vehicles exiting the car wash can go to receive detailing services, to setback back just outside of the 80-foot maximum requirement; this minor extra setback of the building is not unreasonable, especially when considering the fact that the proposed redesign of the Old Bardstown Road and Hillock intersection shows Old Bardstown Road curving into the Subject Property and away from Bardstown Road, thereby lessening the car wash's additional setback from Old Bardstown Road; accordingly, granting the variances will not allow an unreasonable circumvention of the requirements of the zoning regulations, and

WHEREAS, the Commission further finds that as described, the Subject Property is located on a corner lot at the intersection of three streets, which contain differing levels of service; along with the proposed development, the applicant is dedicating additional right-of-way to the public that will provide more area to safely redesign the intersection of Hillock Drive, Old Bardstown Road and Bardstown Road; thus, due to the proposed redesigned intersection, the Site has been modified to incorporate necessary adjustments therein, ensuring the safe maneuverability of vehicles throughout the site and, once the redesigned intersection has been constructed, safe access to Hillock Drive and Old Bardstown Road; the variance is partially a result of the special circumstances arising from the redesign of this intersection, which does not generally apply to land in the general or immediate vicinity, and

WHEREAS, the Commission further finds that the applicant is not responsible for the need to redesign the intersection of Hillock Drive, Old Bardstown Road and Bardstown Road, but is dedicating land to facilitate its construction; accordingly, the circumstances giving rise to the

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variances are not the result of actions taken by the application subsequent to the adoption of the regulations from which relief is sought; and if required to fully comply with the maximum setbacks of the Neighborhood Form District, the applicant would be unable to reasonably use its land in a similar manner to the adjacent property to the south; in addition, requiring 80-foot setbacks along the proposed redesigned Old Bardstown Road would deprive the applicant of the reasonable use of the land and create an unsafe and inefficient site design for vehicular movement throughout the Subject Property, creating an unnecessary hardship on the applicant, and

Detailed District Development Plan

WHEREAS, the Louisville Metro Planning Commission finds that no tree canopy will be preserved, but all tree canopy and other planting requirements will be met. LOJIC has not identified any other natural features on site, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan. The applicant has also proposed the realignment of Old Bardstown Road that will improve safety at its intersection with Hillock Drive, and

WHEREAS, the Commission further finds that there is no open space requirement for this site, and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the Commission further finds that the development plan generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the variance from Section 5.3.2, Table 5.3.2 to allow the building to exceed the maximum front setback of 80' by 40' and **(2)** the detailed district development plan **ON CONDITION** that the variance request is added to the plan, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning

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Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 1, 2018 Planning Commission meeting.

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7. At such time that this property is redeveloped for a use other than a car wash, a unified access and circulation system shall be developed to eliminate preexisting curb cuts along Old Bardstown Road and provide for vehicular movement throughout abutting sites as determined appropriate by the Department of Public Works. A cross access agreement to run with the land and in a form acceptable to the Planning Commission legal counsel shall be recorded prior to the time of construction approval for the abutting property to be developed.
8. The area identified for future right-of-way for the relocation of Old Bardstown Road, as shown, shall be dedicated to public use by minor plat or deed at the applicant's expense within 60 days of request by the Director of Louisville Metro Public Works.
9. A 25 ft LBA shall be provided along the rear property line with an 8 ft high privacy fence and tall shrubs.
10. A 15 ft LBA shall be provided along the south property line with an 8 ft high privacy fence and tall shrubs to where the day care ends and the office property begins
11. The hours of operation for the carwash shall be from 8:00 a.m. to 9:00 p.m.

The vote was as follows:

YES: Brown, Lindsey, Lewis, Howard, Jarboe, Smith, and Carlson
NOT PRESENT: Peterson, Ferguson, and Tomes